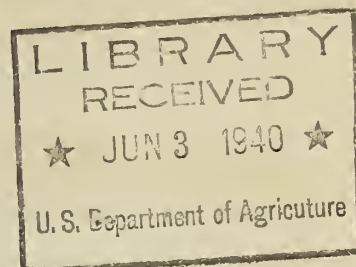


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N O T _ F I N A L

UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service



PROPOSED REVISION
OF THE
RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE
FOR THE
CONDUCT OF A SERVICE FOR SAMPLING, GRADING, AND GRADE LABELING,
AND FOR THE SUPERVISION OF PACKAGING OF
BUTTER, CHEESE, EGGS, POULTRY, AND DRESSED DOMESTIC RABBITS

Washington, D. C.

March 1940

Definitions

55.1 Meaning of words. Words in these regulations in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

55.2 Terms defined. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) Act. The following provisions of an act of Congress entitled "An act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1940, and for other purposes," approved June 30, 1939 (53 Stat. 939) or any future act of Congress conferring like authority:

"For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of businessmen or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits, and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: Provided, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

(b) Secretary. Secretary of Agriculture of the United States.

(c) Person. Individual, association, partnership, or corporation.

(d) Official Sampler. Employee of the Department of Agriculture or other person authorized by the Secretary to take official samples of products for grading by an official grader under the act.

(e) Official Grader. Employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the class, quality, and condition of products under the act.

(f) Official Supervisor of Packaging. Employee of the Department of Agriculture or other person authorized by the Secretary to supervise the packaging of products officially graded under the act.

(g) Products. Butter, cheese, eggs, poultry, dressed domestic rabbits and other dairy and poultry products designated by the Chief of the Agricultural Marketing Service.

(h) Office of Grading. The office of an official grader authorized to grade products under the act.

(i) Sampler's Certificate. Certificate of official samples of products sampled by an official sampler under the act.

(j) Grading Certificate. Certificate of the class, quality, and condition of products issued by an official grader under the act.

(k) Certificate of Packaging. Certificate of packaging of products officially graded and labeled with their proper U. S. grade under the act.

(l) Regulations. Rules and regulations of the Secretary under the act.

Administration

55.3 Chief of Agricultural Marketing Service. The Chief of the Agricultural Marketing Service is charged with the administration of the provisions of the act and these regulations.

Where Service is Offered

55.4 Sampling and Grading - Where Done. Products may be sampled and graded for the purposes of the act at points indicated in paragraphs (a), (b), (c), and (d) of this section whenever an official sampler or official grader is available.

(a) Shipping Points. Sampling and grading may be done wherever products are offered for interstate shipment, including farms, factories, warehouses, loading platforms, wagons, trucks, railway cars, boats, vessels, and other places where products are handled, kept, or stored.

(b) Designated Markets. The following are hereby designated as important central markets at which products may be sampled and graded under the act:

Baltimore	Jacksonville	Portland, Oreg.
Boston	Los Angeles	Richmond, Va.
Chicago	Mason City	St. Louis
Cincinnati	Miami	St. Paul
Cleveland	Minneapolis	San Francisco
Columbus	New York	Seattle
Dubuque	Omaha	Tampa
Duluth	Philadelphia	Washington

(c) Sampling at Other Points. Sampling may be done at or near any shipping point or designated market at which an official sampler is available.

(d) Grading at Other Points. Grading may be done at any shipping point or at or near a designated market to the extent permitted by the time of official graders who are available for grading products at such other points.

55.5 Supervision of Packaging and Grade Labeling. Products may be supervised for packaging and grade labeling at points where the products are sampled or graded and at all points where an official supervisor of packaging is available.

Sampling and Grading Services

55.6 Kind of Grading. Grading may be made for class, quality, and condition.

55.7 Who May Obtain Sampling and Grading. Application for sampling and grading may be made by a branch of the Federal Government, a State or a municipality, or by any person having a financial interest in the products involved, including the shipper, the receiver, the buyer or the carrier, or by any authorized person in behalf of such applicant.

55.8 How Sampling and Grading May be Obtained. Application for sampling and grading may be made orally, in writing, by telegraph, telephone, or otherwise. Application for sampling may be filed with an official sampler. Application for grading may be filed in the office of grading or with any authorized grader at or nearest the place where the grading is desired. If made orally the official sampler or grader may require that the application be confirmed in writing.

55.9 Form of Application. An application for sampling or grading a specified lot of product, when required by the sampler or grader, shall include the following information, or such part of it as may be applicable, as the official sampler or grader may require: (1) The date of application; (2) the identification and location of the product to be sampled or graded; (3) the name and post office address of the applicant and of the person, if any, making the application in his behalf; (4) the interest of the applicant (except the State) therein; (5) the name, post office address, and interest of all other known parties, except carriers, in the products involved; (6) the shipping point and destination of the product; (7) the purpose of the sampling or grading; and (8) such other information as may be necessary for proper identification of the product or as may be required by the official sampler or grader or the Chief of the Agricultural Marketing Service. Applications for contract sampling, grading, and supervision of packaging services may be in such form and contain such provisions as the Chief of the Agricultural Marketing Service approves.

55.10 When Application Deemed Filed. An application for sampling or grading a specified lot of product shall be deemed filed when received by an officer of the Agricultural Marketing Service or delivered to the proper office of that Service.

55.11 When Application May be Rejected. Any application for sampling or grading a specified lot of product may, for noncompliance with the act or any regulation thereunder, be rejected by the official sampler or official grader in charge of the office of the Agricultural Marketing Service in which it is filed, and such official sampler or grader shall immediately notify the applicant by telegraph or in writing of the reasons for such rejection.

55.12 When Application May be Withdrawn. An application for sampling or grading a specified lot of product may be withdrawn by the applicant at any time before the service is performed, upon payment of any expenses incurred in connection therewith.

55.13 Authority of Agent. Proof of the authority of any person applying for sampling or grading on behalf of another may be required in the discretion of the official sampler or grader.

55.14 Accessibility and Condition of Products and Disposition of Official Samples. The applicant shall cause the products for which sampling or grading is requested to be made available for sampling or grading and to be so placed as to disclose their quality and condition. Products shall be graded only under such conditions as will permit a true and correct determination to be made of the class, quality (grade), and condition of the product by the official grader. Official samples that have been graded will be returned to the applicant at his expense, or be disposed of as he may direct; otherwise the samples will be disposed of in such manner as the Chief of the Agricultural Marketing Service may direct.

55.15 Basis of Service. Grading for class, quality, and condition shall be based upon official or tentative standards of the United States Department of Agriculture or on those adopted by the Federal Specifications Board when the grading is for a branch of the Federal Government, and the sampling and grading of products and supervision of packaging and grade labeling shall be done in accordance with such instructions as are prescribed or approved by the Chief of the Agricultural Marketing Service: Provided, however, that each container of butter or cheese in a lot that is tendered for official sampling shall bear the original churning or vat number of the product properly and legibly marked thereon; and if the butter or cheese is tendered for grading and certification for packaging under certificates of quality the applicant shall furnish the name and address of the manufacturer, the date of manufacture of each churning or vat, and number of packages of each churning or vat, and the packages shall be marked with the stencil number or other identifying mark of the manufacturer, the date of manufacture, and churning or vat number of the product.

55.16 Order of Sampling and Grading. Sampling and grading service shall be rendered as far as practicable in the order in which applications are received, except that precedence may be given to applications made by another branch of the Federal Government, or by a State or a municipality.

55.17 Financial Interest of Official Samplers and Graders. No official sampler or grader shall sample or grade any products in which he is financially interested.

55.18 Investigation on Motion of Official Graders. An official grader may of his own motion and without the use of any force, when authorized by the Chief of the Agricultural Marketing Service, investigate the quality and condition of any products at such points as are provided under Section 55.4 and may issue and transmit to the shipper of such products, and other parties interested therein, certificates or copies thereof showing the results of such investigations; provided, however, that an official grader whose duties also are those of supervisor of sampling, grading, or packaging may on his own motion sample or investigate the quality and condition of any products previously sampled or previously graded, and may issue resampling certificates or regrading certificates which shall supersede the sampling or grading certificates that were previously issued on the products.

55.19 Certificate, form of. Certificates covering sampling and grading and packaging shall be issued on forms approved by the Chief of the Agricultural Marketing Service.

55.20 Certificates, Issuance. The official sampler or grader shall sign and issue a separate certificate for each lot of products sampled or graded by him: Provided that when application for grading is made by any branch of the Federal Government or by a public institution or by anyone for the purpose of determining whether the products covered by the application comply with contract specifications therefor, and a formal grading certificate is not required by the Agricultural Marketing Service, then a formal certificate need not be issued but the fact of such compliance or noncompliance may be indicated by appropriate official stamp or mark placed by the official grader on such products, or the containers thereof, or otherwise in the discretion of the official grader. The official supervisor of packaging shall sign and issue a certificate covering each and every lot of products packaged and grade labeled under his supervision.

55.21 Disposition of Certificates. The original certificate of grading, and one copy if requested, upon issuance shall be immediately delivered or mailed to the applicant or the person designated by him. One copy shall be filed in the office of the official grader issuing it and the other copies shall be filed as directed by the Chief of the Agricultural Marketing Service. Other copies of certificates of grading will be supplied to financially interested persons as provided in Section 55.45. The original certificate of sampling or certificate of packaging shall be delivered to the applicant. One copy of each sampling

or packaging certificate shall be filed in the office of the official sampler or office of the supervisor of packaging. Other copies of certificates of sampling or packaging shall be filed as directed by the Chief of the Agricultural Marketing Service.

55.22 Advance Information. Upon request of an applicant, all or any part of the contents of the certificate of grading may be telegraphed or telephoned to him at his expense.

Nonappeal Grading

55.23 How to Obtain. Nonappeal grading may be obtained by the applicant or other person financially interested in the product by filing a request or application for such nonappeal grading with (1) any official sampler or any official grader, (2) a supervising official grader, or (3) the Chief of the Agricultural Marketing Service. The application for nonappeal grading shall state the reasons therefor, and if the product has been previously graded it should be accompanied by a copy of any previous grading certificate or report, or any other information which the applicant may have received regarding the product at the time of the previous grading. Such application may be made orally, in writing, by telegraph, telephone, or otherwise. If made orally, the person receiving the application may require that it be confirmed in writing. Applications for nonappeal gradings shall be handled as are applications for appeal gradings with respect to a record of the filing time, a refusal of the application, or a withdrawal of the application.

55.24 How Nonappeal Gradings Shall be Made. Nonappeal gradings shall be performed, as far as practical, when requested by the applicants and in the order in which applications are received. They shall take precedence over all other pending applications except applications for appeal gradings. Applications for nonappeal gradings shall be passed upon by the official graders designated for the purpose by the Chief of the Agricultural Marketing Service, and such gradings shall be made jointly by two official graders, both signing the nonappeal grading certificate. The provisions of Sections 55.6 to 55.22, inclusive, except as provided in Sections 55.23 and 55.24, shall apply to nonappeal grading certificates. A nonappeal grading certificate shall not be subject to appeal, and, therefore, the findings of fact as determined by a nonappeal grading shall be final.

Appeal Grading

55.25 When Appeal May be Taken. An application for appeal grading may be made whenever any financially interested party is dissatisfied with the determination stated in the original or regrading certificate: Provided the application is made within 24 hours following the hour of the original grading and the identity of the samples or products graded in the original lot has not been lost. Upon satisfactory showing of evidence of fraud, or that because of distance the time for the filing of an application for appeal grading is insufficient, or other good cause, the applicant may be allowed to file such application after the time herein prescribed.

55.26 How to Obtain. Appeal grading may be obtained by the applicant or other person financially interested in the product by filing a request for such appeal grading with (1) any official sampler or any official grader, (2) a supervising official grader, or (3) the Chief of the Agricultural Marketing Service. The application for appeal grading shall state the reasons therefor and should be accompanied by a copy of any previous grading certificate or report, or any other information which the applicant shall have received regarding the product at the time of the original grading. Such application may be made orally, in writing, by telegraph, telephone, or otherwise. If made orally, the person receiving the application may require that it be confirmed in writing.

55.27 Record of Filing Time. A record showing the date and time of filing such application shall be made by the receiver thereof.

55.28 When Appeal Application May be Refused. If it shall appear that the reasons stated in an application for appeal grading are frivolous or insubstantial, or that the quality or condition of the products has undergone material change since the last previous grading, or appeal grading, or the identical products cannot be made accessible for grading, or the act or these regulations have not been complied with, the application may be rejected and the applicant shall be notified the same day, by telegraph or by letter, of the reason for such rejection, and a statement of such action shall be included in the record of such application.

55.29 When Appeal Application May be Withdrawn. An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading is done upon payment of any expense incurred in connection therewith.

55.30 New Gradings or Regradings. Gradings requested to determine the class, quality, and condition of products which have been previously graded, shall be considered as regradings unless the applicant questions the correctness of the last previous certificate issued on the product. If the application for an appeal grading is rejected or the required personnel for the making of an appeal grading is not available, an application for a regrading may be made.

55.31 Order in Which Made. Appeal grading shall be performed as far as practicable at the time requested by applicant and in the order in which applications are received. They shall take precedence over all other pending applications.

55.32 Who Shall Pass Upon Appeals. Applications for appeal grading shall be passed upon by official graders designated for the purpose by the Chief of the Agricultural Marketing Service, and such gradings shall be conducted jointly by two official graders when practicable. No official grader shall pass upon an application for appeal grading which involves the correctness of a certificate issued by him.

55.33 Appeal Findings. The official grader making an appeal grading shall sign and issue an "appeal grading certificate", which shall supersede and refer specifically to the original grading certificate from which the appeal was taken, and state the quality and condition of products, as determined by the appeal grading. The provisions of Sections 55.6 to 55.22, inclusive, shall apply to appeal grading certificates, except that copies of the appeal grading certificates shall be sent to all known interested parties.

55.34 Superseded Certificate. When a grading certificate shall have been superseded under these regulations by an appeal grading certificate or a regrading certificate, such grading certificate shall become null and void and shall not thereafter represent the class, quality, and condition of the lot of products described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for regrading, appeal grading, or nonappeal grading is filed, the officer issuing the regrading, appeal grading or nonappeal grading certificate shall forward notice of such issuance and of the cancelation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

Licensed Official Samplers, Graders and Supervisors of Packaging

55.35 Who May be Licensed. Persons showing proper qualifications may be licensed by the Secretary as official samplers or graders, or as supervisors of packaging, of products which may be sampled, graded, or packaged and grade labeled under the act. All such licenses shall be countersigned by the Chief of the Agricultural Marketing Service or by such person or persons as are authorized by him for the purpose, and the licensee as a condition to the granting of the license, shall procure at his own expense and deliver to the Agricultural Marketing Service, United States Department of Agriculture a surety bond in the amount of \$1,000 as surety for the proper performance of duty as a licensee under the Act, and if the license should be suspended or revoked by the Secretary of Agriculture, or the issuing officer, that he shall immediately on demand surrender the license to the issuing officer.

55.36 License, Suspension of. Any license may be suspended, pending final action by the Secretary, by the Chief of the Agricultural Marketing Service, or by any official by whom it may be countersigned, whenever such official shall deem such action to be for the good of the service. Within 7 days after such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

Fees and Charges

55.37 Basis for Charges. Fees and charges for sampling, grading, regrading and supervision of packaging and grade labeling at shipping points, designated markets, and other points shall be based upon the actual time required to render the service, including the time required for travel of the official sampler, grader, or supervisor of packaging

in connection therewith, between his office or point of previous duty and the place of service, at the rate of 65¢ per hour for each official sampler or official supervisor of packaging assigned and \$2.00 per hour for each official grader assigned, or at the rate specified in Sections 55.38 to 55.44, inclusive, unless otherwise provided by contract or agreement with the applicant or by supplemental schedules approved by the Chief of the Agricultural Marketing Service; provided that an additional fee of \$3.00 shall be charged when the sampling, grading, or appeal grading is made in a freight or express car or other place where the entire lot of product is not readily accessible to the official sampler or official grader; provided further that the Chief of the Agricultural Marketing Service may, in lieu of the fixed charges of 65¢ per hour or of \$2.00 per hour stated above, or the rates specified in Sections 55.38 to 55.44, fix other reasonable charges for the sampling, grading, and supervision of the packaging and grade labeling of products at rates which in his judgment will cover the cost of the service; except, that the sampling, grading, and supervision of packaging or grade labeling of products for Government agencies shall, when the costs are to be borne by those agencies, be at the actual cost or at an hourly rate prescribed by the Chief of the Agricultural Marketing Service.

55.38 Butter and Cheese Grading Fees. For each lot of butter or cheese graded or regraded for class, quality, and condition, pursuant to these regulations, the fee shall be on the basis of the approximate net weight or on the number of churnings or vats of butter or cheese in such lots, as follows:

(a) When each separate churning or vat is not indicated by number or otherwise on the packages -

For 1,500 pounds or less	\$ 1.50
For 1,501 pounds to 3,000 pounds, inclusive	2.25
For 3,001 pounds to 6,000 pounds, inclusive	3.00
For 6,001 pounds to 10,000 pounds, inclusive	3.75
For each additional 10,000 pounds or fraction thereof beyond 10,000 pounds an additional charge of75

(b) When each separate churning or vat is indicated by number or otherwise on the packages -

For 7 or less churnings or vats	\$ 1.50
For each additional churning or vat beyond 7 an additional charge of15

55.39 Egg Grading and Inspection Fees. For each lot of eggs graded or regraded for class, quality, and condition, or inspected for condition, pursuant to these regulations, the fees shall be based on the gross number of packages in each lot, as follows:

(a) For shell eggs:

For 2 packages or less	\$ 0.50
For 3 to 15 packages, inclusive	1.00
For 16 to 25 packages, inclusive	1.50
For 26 to 50 packages, inclusive	2.25
For 51 to 100 packages, inclusive	3.00
For 101 to 200 packages, inclusive	4.00
For 201 to 350 packages, inclusive	5.00
For 351 to 550 packages, inclusive	6.00
For additional 100 packages or fraction thereof an additional charge of	1.00

(b) For frozen eggs:

(1) When the warehouse in which the eggs are located is within reasonably easy access from the office of inspection and when assistance is furnished in opening and closing cans and otherwise making the samples ready for examination -

For 50 cans or less	\$ 2.50
For each additional 50 cans or fraction thereof an additional charge of25

(2) When the warehouse at which the eggs are located is not within reasonably easy access from the office of inspection or when assistance is not furnished in opening and closing cans and otherwise making the samples ready for examination, charges in addition to those specified in (1) may be made to cover the additional time spent in traveling to and from the warehouse and in preparing the samples for examination, at the rate of \$2.00 per hour, and for travel costs incurred.

55.40 Dressed Poultry and Dressed Domestic Rabbits Grading Fees.

For each lot of dressed poultry or dressed domestic rabbits graded or regraded for class, quality, and condition, pursuant to these regulations, the fee shall be on the basis of the approximate net weight of the dressed poultry or dressed domestic rabbits in such lot, as follows:

For 50 pounds or less	\$ 0.50
For 51 pounds to 500 pounds, inclusive	1.00
For 501 pounds to 1,500 pounds, inclusive	1.50
For 1,501 pounds to 3,000 pounds, inclusive	2.00
For 3,001 pounds to 10,000 pounds, inclusive	4.00
For 10,001 pounds to 20,000 pounds, inclusive	6.00
For 20,001 pounds to 30,000 pounds, inclusive	8.00

55.41 Fees for Grading Official Samples. For each lot of official samples of butter, cheese, eggs, dressed poultry, dressed domestic rabbits, or other dairy and poultry products graded pursuant to these regulations, the fee may be based on the actual time required at the rate of \$2.00 per hour with a minimum charge of \$1.00 for any lot of samples.

55.42 Fees for Nonappeal Grading. Fees for nonappeal grading shall be 2-1/2 times those for original grading.

55.43 Fees for Appeal Grading. Fees for appeal grading shall be three times those for original gradings, except that no fee shall be charged when it is found that there was a material error in the certificate from which the appeal was taken.

55.44 Official Sampling Fees. The fees for taking an official sample of any lot of butter, cheese, eggs, dressed poultry, dressed domestic rabbits; or other dairy or poultry product, unless otherwise approved by the Chief of the Agricultural Marketing Service, shall be 40 percent of the fees for grading the lot as provided in Sections 55.38 to 55.40, inclusive.

55.45 Fees for Copies of Grading Certificates. Copies of certificates of grading other than those provided in Section 55.21 may be supplied to financially interested persons by the office where the original grading certificate was issued upon payment of a fee of 50¢ for each set of four or a smaller number of copies of a grading certificate.

55.46 Fees Under Cooperative Agreements. Fees for sampling and grading and for supervising the packaging and grade labeling of products under a cooperative agreement shall be those provided for by such agreement.

55.47 Traveling Expenses, etc. Such further charges may be made for traveling expenses and other items paid or incurred by the Agricultural Marketing Service or by its authorized representative in connection with the sampling, grading, appeal grading, and supervising of packaging as will cover the cost thereof.

55.48 How Fees Shall be Paid. Fees and other charges shall be paid by the applicant in accordance with the direction on the fee bill furnished him, and in advance if required by the official sampler, grader, or supervisor of packaging.

55.49 Disposition of Fees. Fees covered by Sections 55.37 to 55.45 shall be disposed of as follows:

(a) Fees for sampling and grading, and for supervision of packaging or grade labeling of products by an official sampler, grader, or supervisor of packaging acting exclusively for the Agricultural Marketing Service shall be remitted promptly to that Service.

(b) Fees for sampling and grading, and for supervision of packaging or grade labeling of products by a licensed sampler, grader, or supervisor of packaging acting exclusively for the Agricultural Marketing Service, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the Agricultural Marketing Service.

(c) Fees for sampling and grading, and for supervision of packaging or grade labeling of products under cooperative agreements with a State or other organization or agency shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be promptly remitted to the Agricultural Marketing Service.

(d) All remittances under this Section made to the Agricultural Marketing Service shall be by check, post office draft or money order made payable to the "Treasurer, United States."

Grade Labeling

55.50 Products May be Stamped or Labeled with U. S. Grade. An official sampler or grader or supervisor of packaging when authorized by the Agricultural Marketing Service may stamp, tag, or label or supervise the stamping, tagging, or labeling of each unit of product or package of product in any lot of officially graded product with the class, quality (grade), and condition of the products, as determined by an official grader. The stamps, tags, labels, seals, packing materials, or other marks used for such purposes shall be approved by the Agricultural Marketing Service, and shall indicate that the product has been officially graded or Federal-State graded, and shall state the class or quality or grade of the product, and when required by these regulations shall also state the date of grading and the number of the grading certificate issued on the product. Packing materials, such as butter cartons, egg cartons, and wrapping materials, that are used as the outside wrapper or container for such product shall not be approved for use in the packaging of products bearing or containing certificates of quality or grade labels authorized by these regulations, unless such packing materials and wrappers are used exclusively for such purpose.

55.51 Authorized Use and Form of Certificates of Quality. An applicant for grading, or a vendor of butter, cheese, or eggs, whose products have been graded by an official grader, may issue certificates of quality of substantially the following forms which are hereby approved:

(a) For Butter and Cheese

Certificate of Quality

Issued by authority of the United States Department of Agriculture

This is to certify that the butter (or cheese) in this package was graded by an official grader, and that the date of grading and number of the grading certificate issued are stamped or perforated hereon and that the quality at time of grading was: U. S. 93 score (or U. S. 92 score).

Packed by (or distributed by)

(Name of Firm or Applicant)

(Address)

(b) For Eggs

Certificate of Quality

Issued by authority of the United States Department of Agriculture

This is to certify that the eggs in this package were graded by an official grader, and that the date of grading and number of the grading certificate issued are stamped hereon and that the quality at time of grading was U. S. Specials - Retail Grade AA - Large (or Medium), (or U. S. Extras - Retail Grade A - Large) (or Medium or Small).

Packed by (or distributed by)

(Name of Firm or Applicant)

(Address)

55.52 Use of Certificates of Quality Limited to Products of High Quality. Authority to use certificates of quality shall be limited to butter that is officially graded not less than U. S. 92 score, to cheese that is officially graded not less than U. S. 92 score, and to eggs that are officially graded not lower than U. S. Extras, Retail Grade A.

55.53 Authorized Use and Form of Grade Labels for Eggs. An applicant for grading or a vendor of eggs that are graded by an official grader, when the official U. S. grade of the eggs is below U. S. Extras, Retail Grade A, but not below the grade of U. S. Standards, Retail Grade B, may issue grade labels, which shall be used for sealing the cartons in which the eggs are packed. The grade labels shall be of substantially the following form, the words "Retail Grade B" being required to appear on each grade label.

U. S. Government

Graded and Dated

U. S. Standards - Large (or Medium or Small)

Retail Grade B, when graded

Date and Certificate Number

Packed by (or distributed by)

(Name of Firm or Applicant)

(Address)

55.54 Authority to Issue Certificates of Quality and Grade Labels Limited to Firms Whose Applications are Approved. Authority to issue the certificates of quality or the grade labels, as provided for in Sections 55.51 to 55.53, shall be granted only to applicants for grading or to vendors of butter, cheese, or eggs, whose products have been officially graded, whose written application for the privilege is approved by the Agricultural Marketing Service.

55.55 Services of Supervisor of Packaging Required; Duties Indicated. Authority to issue certificates of quality or grade labels, as provided in Sections 55.51 to 55.53, shall be granted only to applicants who provide for the printing and packaging of the butter and the packaging of the eggs with certificates of quality or grade labels to be done under the supervision of an official supervisor of packaging employed or licensed by the United States Department of Agriculture. The supervisor of packaging shall have custody of all supplies of packaging materials used in the packaging of officially graded products in the plant in which he is employed, or to which he is assigned for duty. He shall keep a complete and detailed record of all new supplies of such materials received and the supplies used in the packaging of the products and of the product packaged in such materials, and maintain such supervision and perform such duties in connection with the packaging of the products with certificates of quality or grade labels as may be required by these regulations, and such instructions as may be issued by the Chief of the Agricultural Marketing Service.

55.56 Keeping-quality Cabinet for Butter Samples is Required. Each applicant for the privilege of issuing certificates of quality on butter that is officially graded, or each applicant for the privilege of packaging butter under certificates of quality, shall provide and maintain a keeping-quality cabinet of suitable construction in which samples taken from butter for which application is made for grading and certification for packaging under certificates of quality may be kept for subsequent examination by an official grader to determine the keeping quality of the butter from which the samples are taken. Also other equipment required for the proper cleaning and sterilization of sample jars, when used, shall be provided. The official supervisor of packaging shall receive from official samplers or official graders samples of butter graded and certified for packaging under certificates of quality, and shall keep these samples in a keeping-quality cabinet provided by the applicant for grading or the applicant for packaging butter under certificates of quality, and the samples shall be kept in the keeping-quality cabinet under such conditions and for such periods as may be required by the Instructions of the Chief of the Agricultural Marketing Service and until examined by the official grader and released by him for destruction or other disposition.

55.57 Butter of Known Poor Keeping-quality Shall Not be Certified for Packaging with Certificates of Quality. When it is known to the official grader that the butter tendered for grading and certification is the product of a creamery whose butter has poor keeping quality as shown by incubation tests made in a keeping-quality cabinet within 60 days prior thereto, he shall not certify the butter for packaging with certificates of quality until it is determined that butter subsequently manufactured by the creamery possesses desirable keeping quality, as set forth in specifications therefor approved by the Chief of the Agricultural Marketing Service.

55.58 Packing and Packaging Room Must be Clean and Sanitary.

Each applicant granted the privilege of issuing certificates of quality on butter and each applicant granted the privilege of packaging butter under certificates of quality, also each applicant granted the privilege of issuing certificates of quality or grade labels on eggs and each applicant granted the privilege of packaging eggs under certificates of quality or grade labels who operates a butter printing and packaging room or an egg candling, grading, and packaging room shall maintain such room in a clean and sanitary condition, and in all respects such room shall comply with and be maintained in such proper sanitary condition as may be specified by the Chief of the Agricultural Marketing Service.

55.59 Cold-Storage and Commercially Shell-Cleaned Eggs Must be Marked When Packaged Under Certificates of Quality. Cold storage eggs or eggs which have been shell-cleaned commercially by use of sand or dry abrasive and eggs which have been commercially washed or otherwise commercially shell-cleaned shall not be certified for packaging under certificates of quality unless the cartons in which they are packed are appropriately marked or labeled, as the case may require, with the words "cold storage eggs" or "commercially shell-cleaned eggs" in type no smaller than 18 point, and unless the certificates of quality used to seal the cartons in which such eggs are packaged are marked with the same wording in type of the same size and prominence as the type used thereon to state the U. S. grade of the eggs.

55.60 Cold-Storage Eggs Must be Marked as Such During Certain Months. Nonprocessed (eggs that have not been oil dipped) cold-storage eggs during the period from October 1 to March 1, and oil-processed cold-storage eggs during the period from December 1 to March 1, shall not be certified for packaging under grade labels unless the cartons in which they are packed are marked with the words "cold storage" in type no smaller than 18 point, and unless the grade labels used to seal the cartons in which such eggs are packaged are marked with the same wording in type of the same size and prominence as the type used thereon to state the U. S. grade of the eggs.

55.61 Certificates of Quality, Grade Labels, etc., Shall be Used Only for Proper, Ethical, and Legal Purposes. The purpose of approved certificates of quality, grade labels, grade seals, grade tags, and other marks stamped upon the packing materials or wrappers, or stamped upon the officially graded product itself or attached to or stamped upon the product or packages of the product prepared for shipment or retail sale as such, is to evidence the fact that the product was graded by an official grader and that it was, at the time it was graded, of the quality stated on the certificate, packing materials, wrappers, grade labels, or grade tags or by the mark upon the product or package. Approval of the use of such certificates, labels, seals, tags, and marks shall be limited to such persons and firms as are applicants for grading or vendors of butter, cheese, eggs, dressed poultry, or dressed domestic rabbits, which products have been officially graded, and who use the approved labels, etc., solely for such purposes as may be considered proper, ethical, and legal in the advertising and merchandising of the graded products.

55.62 Privilege to Use Certificates of Quality or Grade Labels May be Withdrawn. The privilege or authority to issue or use certificates of quality and grade labels which bear the stamp or grade mark of the official grader or the U. S. grade of the product may be withdrawn for disuse or for unethical, deceptive, fraudulent, illegal, or unauthorized use.

55.63 When Drawn Poultry and Drawn Rabbits May be Graded. Drawn or eviscerated poultry and drawn domestic rabbits shall not be graded for quality unless the carcasses have been previously inspected and certified for condition and wholesomeness under Service and Regulatory Announcements No. 131 (Revised 1937) entitled, Rules and Regulations of the Secretary of Agriculture Governing the Inspection and Certification of Dressed Poultry and Dressed Domestic Rabbits for external condition and of dressed poultry and dressed domestic rabbits and edible products thereof for condition and wholesomeness: Provided, however, that drawn poultry or drawn domestic rabbits which have not been previously inspected for condition and wholesomeness may be graded for quality when offered for delivery to agencies, activities, or institutions where the graded product is to be consumed and will not be offered for public sale.

Miscellaneous

55.64 Fraud or Misrepresentation. Any willful misrepresentation or any deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application; the use of a sampling, grading, or appeal grading certificate or a certificate of packaging issued under these regulations, or the use of a certificate of quality or a grade label authorized or approved under these regulations; or the use of any official grading stamp, tag, seal, mark, or approved label, or any willful violation of these regulations or of instructions issued by the Chief of the Agricultural Marketing Service, may be deemed sufficient cause for debarring such persons from any benefits of the act, and in case of violation of the Food, Drug, and Cosmetic Act of 1938 may subject the shipper to prosecution and the product shipped to seizure.

55.65 Publication. Publications under the act and these regulations shall be made in the Service and Regulatory Announcements of the Agricultural Marketing Service and such other media as the Chief of that Service may from time to time designate for the purpose.

55.66 Political Activity. All official samplers, graders, and supervisors of packaging authorized, either by appointment from or license by the Secretary of Agriculture, to issue sampling or grading certificates or certificates of packaging under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees and licensees, including temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

55.67 Identification. All official samplers, graders, and supervisors of packaging shall have in their possession, or the possession of the supervisor, at all times their license or graders' identification cards and shall identify themselves by such cards on request.

Done at Washington, D. C., this
-- -- -- day of -- -- --, 1940.

Witness my hand and the seal of
the Department of Agriculture.

Secretary of Agriculture.

N O T - - F I N A L

UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

SUPPLEMENTARY INSTRUCTIONS OF THE CHIEF
OF THE
AGRICULTURAL MARKETING SERVICE
FOR THE
CONDUCT OF A SERVICE FOR SAMPLING, GRADING, AND GRADE LABELING,
AND FOR THE SUPERVISION OF PACKAGING OF
BUTTER, CHEESE, EGGS, POULTRY, AND DRESSED DOMESTIC RABBITS

Washington, D. C.

March 1940

SUPPLEMENTARY INSTRUCTIONS OF THE CHIEF
OF THE
AGRICULTURAL MARKETING SERVICE
FOR THE
CONDUCT OF A SERVICE FOR SAMPLING, GRADING, AND GRADE LABELING,
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BUTTER, CHEESE, EGGS, POULTRY, AND DRESSED DOMESTIC RABBITS

Acting under authority vested in the Chief of the Agricultural Marketing Service, by Sections 55.3, 55.15, 55.32, and 55.55 of the Rules and Regulations of the Secretary of Agriculture (S.R.A. 137 - Revised), the following instructions are hereby issued to be in force and effect on and after _ _ _ _ _ , 1940.

Chief, Agricultural Marketing Service.

Section 1. Improper, Unethical or Unauthorized Use of Certificates of Quality, Grade Labels, etc., Must be Reported. It shall be the duty of every authorized official sampler, official grader, and official supervisor of packaging of butter, cheese, eggs, dressed poultry, or dressed domestic rabbits to report to the Specialist in Charge of the Division of Dairy and Poultry Products each and every instance of which he has knowledge or information of improper, unethical or unauthorized use made of any grading certificate, certificate of quality, grade label, grade seal, grade tag, or grade mark by an applicant or vendor of the graded product, or of any method of use or practice in connection therewith which might be considered improper, unethical, fraudulent, illegal, or unauthorized, and failure to do so will be subject to discipline.

Section 2. U. S. Standards Shall be Used. Gradings of butter, cheese, eggs, poultry, and dressed domestic rabbits for class, quality, or condition made by official graders of the United States Department of Agriculture shall be based upon the official or tentative standards of the United States Department of Agriculture, or the specifications adopted by the Federal Specifications Board, when the grading is for a branch of the Federal Government. The grading results shall be stated on the grading certificate and other grading records in terms of applicable U. S. grades (or Federal specifications), except that U. S. grade designations may be supplemented by State grades when approved by the Chief of the Agricultural Marketing Service.

Section 3. Persons Authorized to Pass on Applications for Appeal and Nonappeal Grading. Applications for appeal and nonappeal gradings of butter, cheese, eggs, dressed poultry, and dressed domestic rabbits may be passed upon by the persons designated below, provided that no application for appeal grading shall be passed upon by the person who made the original grading from which the appeal is taken.

Washington, D. C. and all other points: Roy C. Potts,
Rob R. Slocum, and T. W. Heitz.

Boston: N. A. Dakin, W. B. S. Woodward, and Bruce S. Mars.

New York: L. F. Champlin, Lester Kilpatrick, and
Bruce S. Mars.

Philadelphia: H. A. Rust, B. W. Kempers, and Bruce S. Mars.

Chicago, Dubuque, Duluth, Mason City, Minneapolis, Omaha, St. Louis,
and St. Paul: E. Small and Henry G. F. Hamann.

Seattle: E. R. Johnson and B. J. Ommodt.

Portland: R. S. Smith and B. J. Ommodt.

San Francisco: F. H. McCampbell, D. D. Moosman, and B. J. Ommodt.

Los Angeles: A. G. Abell, F. L. McKittrick, and B. J. Ommodt.

